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C O N F I D E N T I A L SECTION 01 OF 02 JERUSALEM 001898

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SUBJECT: PRESIDENTIAL DECREE ALTERS ELECTIONS LAW

REF: JERUSALEM 01691

Classified By: Consul General Jake Walles, Reasons 1.4 (b) and (d).

11. (C) Summary: President Abbas issued a presidential decree amending the PA elections law on September 2. The new law modifies the electoral system to be fully proportional; requires the president to obtain an absolute majority of votes; and requires candidates to accept the PLO as the sole, legitimate representative of the Palestinian people, the provisions of the Basic Law, and the Palestinian Declaration of Independence. HAMAS has predictably criticized the decree, but Palestinian public reaction has been generally muted.

New Elections Law

12. (U) PA President Mahmud Abbas (Abu Mazen) on September 2 issued a presidential decree amending the law governing elections for PA president and Palestinian Legislative Council (PLC) members. The new electoral system is fully based on proportional representation and requires candidates to accept the PLO as the sole, legitimate representative of the Palestinian people. Candidates must also accept the provisions of the PA Basic Law and the 1988 PLO Declaration of Independence. (Note: The Declaration of Independence is generally interpreted to have recognized Israel in its pre-1967 boundaries. End note.) It requires a run-off vote for president, if no candidate wins an absolute majority (fifty percent plus one).

13. (C) The new law sets a 1.5 percent threshold for factions to gain admittance to the PLC and maintains the quotas for women and Christians. The wording of the article on the women's quota is the same as in the previous law, but the quota now applies to the entire PLC under a single representation district, rather than only half the PLC, and the change could effectively double the number of women in the PLC. The number of seats reserved for Christians is determined by a presidential decree based on the percentage of the population that is Christian and will stay the same.

Generally Muted Reaction

14. (C) Independent PLC member Bernard Sabella told PolOff that the PLC must endorse the decree at its next session, which he acknowledged is unlikely to be soon, but summed up the West Bank reaction as muted. He pointed to the lack of discussion of Abbas' decree by PLC members and only cursory radio and newspaper reports and said frustration at the Fatah-HAMAS stalemate has diluted interest in this issue.

Technical Criticisms of the Law

15. (C) Hussam Sarandah, technical advisor to the Chief Executive Office of the Central Elections Commission (CEC), told PolOff that the CEC is an executive body, neutral to the new law, but that its members believe that Abbas was unwise to change the law. The fully proportional system appears designed to benefit Fatah, he said, and the requirement to accept the PLO is designed to undercut HAMAS. This arrangement could delegitimize future election results in the eyes of Palestinians, Sarandah said. He added that the new law does not detail the method of filling the Christian quota seats.

16. (C) Abd al-Sattar Qassem, a professor at al-Najah University, said publicly that the new law benefits a single party (Fatah) rather than the Palestinians as a whole. He criticized the requirement for candidates to accept the PLO, Basic Law and Declaration of Independence as undermining the democratic ideal of multiple parties with different views competing against each other.

HAMAS Rejects the Decree

17. (U) HAMAS issued public statements against the decree. Acting PLC speaker Ahmad Bahar and HAMAS spokesman Sami Abu Zuhri described it as illegal, and former PM Ismail Haniya's chief of staff Muhammad al-Madhun said Abbas issued the decree to reverse the January 2006 PLC elections.

Comment

18. (C) The generally muted public reaction suggests

JERUSALEM 00001898 002 OF 002

Palestinians realize early elections are unlikely anytime soon. Abbas publicly said elections will not be held before the West Bank and Gaza are reunited. Palestinians may not want to spend too much political energy on this issue at this point. The impact of this decree on any future electoral results is difficult to assess, but it could benefit Fatah and increase the number of seats obtained by small parties. According to an initial IFES analysis, if the January 2006 PLC votes had been tabulated under the new elections law, they would have yielded 60 seats to HAMAS (instead of 74); 55 seats to Fatah (instead of 45); 6 seats to the Martyr Abu Ali Mustafa party (instead of 3); four seats each to the Alternative (al-Mubadara) and Independent Palestine (instead of two each); and three seats to The Third Way (instead of two). Such an outcome, in theory, would have allowed Fatah and other PLO-associated factions to form a majority in the PLC.

WALLES